IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3028 OF 2003

In

SUIT NO.3732 OF 1994

Mahad Flooring Pvt. Ltd. : Plaintiff

V/s.

Vijay Sales Corporation &

Suresh Sales Corporation : Defendant

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Mr.M.B.Mehere for the plaintiff.

None present for the defendant.

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CORAM : S.U. KAMDAR, J.

DATE : February 15, 2006.

P.C.

1. The present Notice of Motion has been taken out for setting aside the order dated 6.8.1999 passed by the Prothonotary & Senior Master dismissing the suit because the writ of summons was not filed. The defendant is served with the writ of summons as well as this Notice of Motion. The learned counsel appearing for the plaintiff seeks liberty to file the writ of summons with the office. The office is directed to accept the writ of summons.

2. Insofar as the affidavit of service dated 24.11.2003 is concerned, the same is taken on record.

3. In the light of the statement made in the affidavit-in-support of the Notice of Motion and that there is no reply controverting that, I set aside the order dated 6.8.1999 passed by the Prothonotary & Senior Master and the suit is restored. The suit to proceed accordingly.

S.U. KAMDAR, J.